

CHAPTER 53
SAFE DRINKING WATER ACT

NOTE: This Chapter is taken from Chapter X of Title XII of the Government Code, added by P.L. 14-90.

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§53101. Title. This Chapter shall be known as the *Guam Safe Drinking Water Act*.

SOURCE: GC §57285.

§53102. Statement of Policy. It is hereby declared to be the public policy of this Territory and the purpose of this Act to protect public water supplies from contamination and to require the provision of safe drinking water for public consumption in order to protect human health and safety to the greatest degree practicable.

To these ends, it is the purpose of this Chapter to provide a comprehensive territory- wide program for the protection and provision of safe drinking water.

SOURCE: GC §57286.

§53103. Definitions. As used in this Chapter:

- (a) *Agency* means the Guam Environmental Protection Agency as established by Chapter 1 of Title LXI

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[Compiled here as Chapter 45 of Part 2 of Division 2 of GCA Title 10].

(b) *Administrator* means the Administrator of the Guam Environmental Protection Agency.

(c) *Public Water System* means a system owned or operated by any person which provides piped water for human consumption if the system has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals, such term includes:

(1) Any collection, treatment, storage and distribution facilities controlled by the system and used primarily in connection with the system; and

(2) Any collection or pretreatment storage facilities not under control of, but which are used primarily in connection with the system.

(d) *Board* means the Board of Directors of the Guam Environmental Protection Agency.

(e) *Person* means an individual, corporation, company, association, partnership, Federal agency or subdivision or agency of the government of Guam.

(f) *Federal Agency* means any department, agency or instrumentality of the United States.

(g) *Supplier of Water* means any person who owns or operates a public water system.

(h) *Contaminant* means any physical, chemical, biological or radiological substance or matter in water which, as determined by the Agency, may have an adverse effect upon human health or may be harmful to the public welfare.

(i) *Federal Administrator* means the Administrator of the United States Environmental Protection Agency.

(j) *Federal Act* means the Safe Drinking Water Act, P.L. 93-523.

(k) *Primary Drinking Water Regulation* means a regulation which:

(1) applies to public water systems;

- (2) specifies contaminants which, as determined by the Agency, may have any adverse effect on the health of persons;
 - (3) specifies for each contaminant either:
 - (i) a maximum contaminant level if, as determined by the Agency, it is economically and technologically feasible to ascertain the level of such contaminant in public water systems; or
 - (ii) if, as determined by the Agency, it is not economically or technologically feasible to ascertain the contaminant level, each treatment technique known to the Agency which leads to a reduction in the level of such contaminant sufficient to satisfy the requirements of §53105; and
 - (4) contains criteria and procedures to assure a supply of drinking water, the quality of which does not exceed maximum contaminant levels; it includes quality control and testing procedures to insure compliance with such standards and proper operation and maintenance of the system, and requirements as to:
 - (i) the minimum quality of water which may be taken into the system; and
 - (ii) siting for new facilities for public water systems.
- (l) *Secondary Drinking Water Regulation* means a regulation which applies to public water systems and which specifies the maximum contaminant level which, in the judgment of the Agency, are requisite to protect the public welfare.
- (m) *National Primary Drinking Water Regulations* means primary drinking water regulations promulgated by the Federal Environmental Protection Agency pursuant to the Federal Act.
- (n) *National Secondary Drinking Water Regulations* means a secondary drinking water regulations promulgated by the Federal Environmental Protection Agency pursuant to the Federal Act.

(o) *Injection* means the subsurface emplacement of any material gaseous, liquid or solid or any admixture thereof, which may add a contaminant to underground waters.

SOURCE: GC §57287.

§53104. Administration. The Agency is herein authorized to:

(a) Perform any and all acts necessary to carry out the purposes and requirements of this Chapter;

(b) Administer and enforce the provisions of this Chapter and all rules, regulations and orders promulgated;

(c) Enter into agreements, contracts or cooperative arrangements with any person for the purpose of carrying out this Act;

(d) Receive financial and technical assistance from the Federal government and other public or private agencies to carry out the provisions of this Chapter;

(e) Participate in related programs of any public or private agencies or organizations;

(f) Establish adequate fiscal controls and accounting procedures to assure proper disbursement of and an accounting for funds appropriated or received for the purpose of carrying out this Chapter;

(g) Delegate those responsibilities and duties as appropriate for the purpose of administering the requirements of this Chapter;

(h) Establish and collect fees for conducting plan reviews, inspections and laboratory analyses as necessary for the purpose of carrying out this Chapter;

(i) Prescribe such regulations as necessary to carry out functions under this Chapter;

(j) Make such investigations and inspections as may be necessary to insure compliance with this Chapter; and

(k) Encourage voluntary cooperation by persons and affected groups to achieve the purposes of this Chapter.

SOURCE: GC §57288.

§53105. Drinking Water Standards. (a) The Agency shall promulgate and enforce primary drinking water regulations and may promulgate and enforce secondary drinking water regulations. Primary drinking water regulations shall protect health using technology, treatment techniques and other means which are generally available. Maximum contaminant levels covered by primary drinking water regulations shall be set at a level at which no known or anticipated adverse effects on the health of persons occur and which allows an adequate margin of safety. Treatment techniques covered by primary drinking water regulations shall require treatment necessary to prevent known or anticipated adverse effects on the health of persons. Primary drinking water regulations shall be no less stringent than the national primary drinking water regulations in effect at that time.

(b) Maximum contaminant levels covered by secondary drinking water regulations may be set at a level which shall protect the public welfare. Treatment techniques covered by secondary drinking water regulations may require treatment necessary to prevent known or anticipated adverse effects on the welfare of persons. Secondary drinking water regulations should be no less stringent than the national secondary drinking water regulations.

(c) Subject to §53110, primary and secondary drinking water regulations shall apply to each public water system in the Territory including those owned and operated by the government of Guam or Federal agencies.

(d) The Agency shall adopt and implement procedures for the enforcement of primary drinking water regulations, including monitoring, inspection and record keeping procedures which are not in conflict with the Federal Act.

(e) The Agency may promulgate and enforce regulations relating to cross-connection and back flow prevention control.

(f) The Agency shall promulgate regulations establishing an underground injection control program. Such program shall prohibit, effective not later than December 15, 1977, any underground injection which is not authorized by a permit issued by the Agency except that the Agency may authorize underground injection by regulation. Underground injection authorized by regulation shall not endanger drinking water sources. Any underground injection control program shall:

(1) set standards and prohibitions controlling any underground injection if such injection may result in the presence of any contaminant in underground water which supplies or may be expected to supply any public water system, and if the presence of such contaminant may result in such system not complying with any national primary drinking water regulations or may otherwise adversely affect the health of persons;

(2) require, in the case of a program which authorizes underground injection by permit, that the applicant for the permit satisfy the Administrator that the underground injection will meet the requirements of Subsection (f)(1) of this Section;

(3) conform to all requirements of the Federal Act and any applicable regulations promulgated thereunder;

(4) include inspection, monitoring, record keeping and reporting requirements.

SOURCE: GC §57289.

§53106. Review of Plans and Specifications. Plans and specifications for the construction or substantial alteration of a public water system shall be submitted to the Administrator for approval in the form and manner specified in regulations adopted by the Agency.

SOURCE: GC §57290.

§53107. Right of Entry and Inspection. (a) The Administrator or his authorized representative may enter at all reasonable times in or upon the property of any public water system for the purpose of inspecting and investigating the adequacy and sanitary condition of the water supply and the quality of its water.

(b) The Agency may enter into cooperative agreements with Federal agencies to implement the provisions of this Paragraph on Federal facilities.

SOURCE: GC §57291.

§53108. Laboratory Certification. No laboratory shall perform the tests and analyses required by the Administrator pursuant to this Chapter for any public water system without first

obtaining a certificate issued by the Administrator that such laboratory is competent and equipped to conduct such tests. Certificates shall be renewed every three (3) years after the date of issuance. The Administrator may revoke any certificate upon determination that the laboratory is no longer competent or equipped to conduct such tests or analyses.

SOURCE: GC §57292.

§53109. Variances and Exemptions. The Board may issue variances or exemptions from the regulations issued pursuant to §53105 under conditions and in a manner consistent with the public interests; however, such variances or exemptions are not permitted under conditions less stringent than the conditions under which variances and exemptions may be granted under the Federal Act.

SOURCE: GC §57293.

§53110. Notification of User and Regulatory Agencies. Whenever a public water system:

- (a) Fails to comply with an applicable standard, treatment technique or testing procedure requirement of the primary drinking water regulations;
- (b) Fails to perform monitoring required by regulations adopted by the Agency;
- (c) Is subject to a variance granted for an inability to meet a standard requirement;
- (d) Is subject to an exemption; or
- (e) Fails to comply with the requirements prescribed by the variance or exemption;

The public water system shall promptly notify the Administrator and users in a form and manner prescribed by regulation by the Agency.

SOURCE: GC §57294.

§53111. Imminent Hazards. The Agency may, upon learning that a contaminant is present in or is likely to enter a public water system and may present an imminent and substantial danger to the public, take actions necessary to protect the health of the public. The actions which the Agency may take include but are not limited to:

(a) issuing such orders as may be necessary to protect the health of persons who are or may be users of such system (including travelers); and

(b) commencing a civil action for appropriate relief, including a restraining order or permanent or temporary injunction. Such action shall be conducted in and by the Superior Court of Guam.

SOURCE: GC §57295.

§53112. Plan for Emergency Provision of Water. The Agency shall develop a plan for the provision of safe drinking water under emergency circumstances. When the Administrator determines that emergency circumstances exist in the Territory with respect to a need for safe drinking water, he may take such actions as necessary with the concurrence of the Governor of Guam to implement the plan for safe drinking water.

SOURCE: GC §57296.

§53113. Prohibited Acts. The following acts are prohibited:

(a) Failure by a supplier of water to comply with the requirements of §53110, or dissemination by any supplier of false or misleading information with respect to notices required pursuant to §53110 or with respect to remedial actions undertaken to achieve compliance with primary drinking water regulations;

(b) Failure by a supplier of water to comply with regulations promulgated pursuant to §53105 or with the conditions for variances or exemptions issued under §53109; and

(c) Failure by any person to comply with any order issued by the Agency pursuant to this Chapter.

SOURCE: GC §57297.

§53114. Remedies. The Administrator may enforce this Chapter in either administrative or judicial proceedings.

(a) Administrative. If the Administrator determines that any person is violating any provision of this Chapter, any rule or regulation promulgated thereunder or any variance or exemption issued pursuant thereto, the Administrator may have that person served with a Notice of Violation and an Order. The notice shall specify the alleged violation. The order may require that the

alleged violator do any or all of the following: cease and desist from the violation; pay a civil penalty not to exceed Five Thousand Dollars (\$5,000) for each day of violation; or appear before the Administrator at a time and place specified in the order and answer the charges complained of. The order shall become final ten (10) days after service unless within those ten (10) days the alleged violator requests in writing a hearing before the Board. Upon such request, the Board shall specify a time and place for the alleged violator to appear. When the Administrator issues an order for immediate action to protect the public health from an imminent and substantial danger, the Agency shall provide an opportunity for a hearing within twenty-four (24) hours after service of the order. After a hearing pursuant to this Subsection before the Board, the Board may affirm, modify or rescind the Administrator's order as appropriate. The Administrator may institute a civil action in any court of appropriate jurisdiction for the enforcement of any order issued pursuant to this Subsection.

(b) Judicial. The Administrator may institute a civil action in the Superior Court of Guam for injunctive relief to prevent violation of any order or regulation issued pursuant to this Chapter in addition to any other remedy provided for under this Section.

(c) Nothing in this Chapter shall prevent the Agency from making efforts to obtain voluntary compliance through warning, conference or any other appropriate means.

SOURCE: GC §57298.

§53115. Hearings. (a) No rule or regulation and no amendment thereof shall take effect except after public hearing on due notice as provided in the Administrative Adjudication Law.

(b) Nothing in this Section shall be construed to require a hearing prior to the issuance of an imminent hazard order pursuant to §53111 of this Act.

SOURCE: GC §57299.

§53116. Severability. The provisions of this Chapter are severable; if any provision or application of this Act is held invalid, such invalidity does not affect other provisions or applications of this Chapter which can be given effect without the invalid provision or application.

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SOURCE: Section 2, P.L. 14-90.

§53117. Effective Date. This Chapter shall take effect upon its approval by the Governor.

SOURCE: P.L. 14-90:3.
